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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,766	09/10/2003	Rainer Barth	BARTH-2	4858
20151 7590 03/31/2011 HENRY M FEIEREISEN, LLC HENRY M FEIEREISEN 708 THIRD AVENUE SUITE 1501 NEW YORK, NY 10017				
EXAMINER DENNISON, JERRY B				
ART UNIT 2443		PAPER NUMBER		
NOTIFICATION DATE 03/31/2011		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@FEIEREISENLLC.COM

Office Action Summary

Application No.

10/659,766

Applicant(s)

BARTH, RAINER

Examiner

J Bret Dennison

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 15 and 17-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 15 and 17-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

RESPONSE TO AMENDMENT

1. This Action is in response to the Amendment for Application Number 10/659,766 received on 3/09/2011.
2. Claims 1-12, 14-15, 17-26 are presented for examination.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/09/211 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 7-12, 14-15, 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wylie et al. (US 7203560) in view of Zhou et al. (US 20080186166).

Regarding claim 1, Wylie disclosed a method for securely providing event-relevant information about an industrial control alarm event occurring in a machine from an

industrial controller controlling the machine to a specified remote receiver via a network, comprising the steps of:

assigning a specific receiver to each specific industrial control alarm event (Wylie, col. 7, lines 55-67, Wylie disclose alerting users via their pagers, email, voicemail which require specific receiver for the event);

writing the event-relevant information provided by the controller to a database, said event-relevant information including sensitive event-relevant information (Wylie, col. 5, lines 2-5, 10-15, monitoring for events within a controller such as faults; col. 5, lines 45-67, data is saved within the controller thereby allowing notified users to access the data and providing web access)

transmitting from the controller to a receiver in response to the alarm event a receiver-specific message indicating that the alarm event has occurred (Wylie, col. 5, lines 60-65, col. 8, lines 30-53, Wylie disclosed notifying remote users of the event data from the controller); and

accessing the event-relevant information written to the database for the specified receiver via a Web server using a cryptographically protected communication protocol based on an Internet browser in response to the receiver-specific message (Wylie, col. 8, lines 35-53, Wylie disclosed the communications processor acting as a web server and communicating using SSL; col. 9, lines 30-45, Wylie disclosed remote users may lo), and

performing at least one of failure analysis or fault repair on the machine using the sensitive event-relevant information accessed using said cryptographically protected

communication protocol (Wylie, col. 9, lines 30-45; col. 10, lines 55-67, providing diagnostic information).

While Wylie disclosed alerting users of industrial control events, Wylie did not explicitly state the alerts not including sensitive information.

In an analogous art of alerting users, Zhou disclosed an Application Service Provider ("ASP") which serves as an intermediary between devices and end users, providing users the ability to monitor sensor data for one or more devices. Zhou disclosed the ASP comprising one or more servers, including web servers and database servers, for which users have the ability to access device data, specify alert threshold values and receive notifications from the ASP (Zhou, [0021]). Zhou further disclosed that the users may specify what device the user is to receive the alerts (Zhou, [0079]). As such, the system of Zhou clearly assigns a specific receiver to each alarm event as specified by the user. Zhou disclosed users accessing the ASP through a secure website allowing authorized users to update device configurations, set up alerts, monitor other parameters, as well as view sensor data (Zhou, [0022], [0111]). As such, Zhou clearly disclosed that only authorized users can access device information through the secure site. Zhou disclosed that users who cannot access the ASP website can contact a Call Management Center via a convention telephone communication network, and that users "may call the CMC for additional information beyond the basic message generated by the ASP's automatic notification system (Zhou, [0022], [0102]). As such, it is evident that Zhou disclosed the notification system only sending a basic message indicating that an alert event occurred, and the user must either log in to the secure

website to find out additional information or call the CMC, which requires "PIN verification" (Zhou, [0022]).

One of ordinary skill in the art would have been motivated to combine the teachings of Zhou within the teachings of Wylie since both provide for generating alerts to users.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sending of alert messages as disclosed in Zhou, into the teachings of Wylie in order to provide an extra level of security, making it that much more difficult for the system to be hijacked by an intruder, thereby improving the security of the system as a whole.

Claim 11 recites a method having limitations that are substantially similar to claim 1, further reciting a "modem connection" being secure. As shown in the above rejection, Both references disclosed using secure connections to the network and as such, both include a secure modem connection as claimed. As such, claim 11 is rejected under the same rationale.

4. Regarding claim 2, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein the cryptographically protected communication protocol based on the Internet browser comprises a "Hypertext Transfer Protocol Security" protocol (Zhou, [0023], Zhou disclosed using Secure Socket Layer).

5. Regarding claim 3, Wylie and Zhou disclosed the limitations as described in claim 2, including wherein the "Hypertext Transfer Protocol Security" protocol comprises a "Secure Socket Layer" protocol or a "Transport Layer Security" protocol (Zhou, [0023]).
6. Regarding claim 4, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein the receiver-specific message is transmitted to the specified receiver as an e-mail message, an SMS message or as a voice message (Zhou, [0021]).
7. Regarding claim 7, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein access to the Web server is protected by a login prompt and a password (Zhou, [0070]).
8. Regarding claim 8, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein the Web server is integrated with hardware of the controller (Zhou, [0021]).
9. Regarding claim 9, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein at least one of the database and the Web server are implemented as hardware that is separate from hardware of the controller (Zhou, [0021], Zhou disclosed the ASP may be implemented with numerous servers).

10. Regarding claim 10, Wylie and Zhou disclosed the limitations as described in claim 1, including the step of transmitting at least one of data, parameters and programs from the specified receiver to the controller (Zhou, [0111]).

11. Regarding claim 12, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein the event-relevant information written to the data base includes at least one of event messages, fault messages, information about machine status and process information, or a combination thereof (Zhou, [0068]).

12. Regarding claim 14, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein only a receiver-specific message indicating that a specified alarm event has occurred is transmitted to the specified receiver (Zhou, [0022], "basic message").

13. Regarding claim 15, Wylie and Zhou disclosed the limitations as described in claim 11, including wherein the event-relevant information written to the data base includes at least one of event messages, fault messages, information about machine status and process information, or a combination thereof (Zhou, [0068]).

14. Regarding claim 17, Wylie and Zhou disclosed the limitations as described in claim 11, including wherein only a receiver-specific message indicating that a specified

alarm event has occurred is transmitted to the specified receiver (Zhou, [0022], "basic message").

15. Regarding claim 18, Wylie and Zhou disclosed the limitations as described in claim 11, including the step of transmitting at least one of data, parameters and programs from the specified receiver to the controller (Zhou, [0111]).

16. Regarding claim 19, Wylie and Zhou disclosed the limitations as described in claim 11, including wherein the event-relevant information that is written to the database includes at least one of event messages, fault messages, information about machine status and process information, or a combination thereof (Zhou, [0068]).

17. Regarding claim 20, Wylie and Zhou disclosed the limitations as described in claim 11, including wherein only a receiver-specific message indicating that a specified alarm event has occurred is transmitted to the specified receiver (Zhou, [0111]).

18. Regarding claims 21 and 22, Wylie and Zhou disclosed the limitations as described in claims 1 and 11, including wherein the event-relevant information is written to a receiver specific database element of the database (Zhou, [0063]-[0079]).

19. Regarding claims 23 and 24, Wylie and Zhou disclosed the limitations as described in claims 1 and 11, including wherein event-relevant information written to the

database for the specified receiver is accessed in response to the receiver-specific message (Zhou, [0114]).

20. Regarding claims 25 and 26, Wylie and Zhou disclosed the limitations as described in claims 1 and 11, including wherein said fault repair is performed by uploading information to the controller using said cryptographically protected communication protocol (Wylie, col. 8, lines 9-20, 40-45).

21. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wylie and Zhou in view of Qi et al. (US 6892064).

22. Regarding claim 5, Wylie and Zhou disclosed the limitations as described in claim 4. Z Wylie and Zhou hou did not explicitly state wherein the e-mail message includes a cross-reference, in particular a URL address, that provides a link to the event-relevant information that is stored in the database for the specified receiver.

Qi disclosed including a URL linked address within an email in order to provide the user with easier access to the service provider (Qi, col. 17, lines 45-55). Qi provides evidence that the use of URL linked addresses within emails were well known at the time the invention was made. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate using URL linked addresses within the email notifications of Wylie and Zhou in order to obtain the

predictable result of making it easier for users to access their device information upon indication of an alert, thereby making it easier and faster for the users to correct any problems there may be with their devices, and as such, making the system more desirable to use by its customers.

23. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wylie and Zhou in view of Subramaniam et al (US 20070208697).

24. Regarding claim 6, Wylie and Zhou disclosed the limitations as described in claim 4. Wylie and Zhou did not explicitly state wherein the event-relevant information written to the database for the specified receiver includes file attachments which are stored in the database for the specified receiver.

Subramaniam disclosed that information may be saved as file attachments and stored in the database so that they can be downloaded by users (Subramaniam, [0318]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate saving the alert information as file attachments within the database of Wylie and Zhou in order to allow users, when accessing their device information through the database, to download such information as a file to store for archiving and keep for reviewing historical data (Zhou, [0068]), thereby allowing users to maintain information about their devices.

Response to Arguments

Applicant's arguments filed 10/07/2010 have been fully considered but they are not persuasive.

Applicant does not present any substantive arguments to distinguish the limitations of the claim from the cited prior art relied upon in the rejection. Instead, Applicant merely presents spurious arguments that are not specific to the claimed limitations, and merely asserts that the language of the claim is not taught.

Therefore, the Applicant has failed to rebut the Examiner's rejection of the claim with any persuasive analysis. Instead, Applicant grounds their argument on a conclusory assertion. This form of argument is wholly ineffective in demonstrating error in the Examiner's prima facie case to establish the patentability of the claims. *See Ex parte Belinne*, No. 2009-004693, slip op. at 7-8 (BPAI Aug 10, 2009)(informative), available at <http://www.uspto.gov/web/offices/dcom/bpai/its/fd09004693.pdf>

Examiner further notes that a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the reference does not comply with the requirements of 37 C.F.R. 1.111(b).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

To further assist Applicant regarding the combination of Wylie and Zhou, and as to why the combination is proper, Examiner reminds Applicant that Zhou is only relied upon to show that event notifications can be sent to receivers without the need to send "sensitive information". One of ordinary skill in the art would have been motivated to incorporate this type of message as described by Zhou into the teachings of Wylie because doing so does not provide any extra implementation. Both teachings described the use of the same type of transmission protocols such as TCP and SSL. Therefore the simple incorporation of the type of message would be obvious as both references include similar transmission environments.

Furthermore, Examiner would like to point out that, while Zhou was relied upon to disclose the sending of a message that does not include "sensitive information", Examiner would like to point out that the teachings of Wylie do not preclude this type of transmission.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J Bret Dennison/
Primary Examiner, Art Unit 2443